

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

United States of America,

Case No. 3:93CR746

Plaintiff

v.

ORDER

Josephus Petaway,

Defendant

After serving twenty-five years of a mandatory life sentence imposed in January, 1995, reduced to 360 months under the Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372, the defendant has finally been released from custody.

Now pending is his motion for relief under the First Step Act of 2018. Pub. L. No. 115-391, 132 Stat. 5194. (Doc. 703). The government opposes the motion. (Doc. 849). It does so on the basis that, reading the First Step Act in conjunction with the Fair Sentencing Act of 2010, the defendant is ineligible for a reduction in sentence.

I disagree. As my colleague, Judge Donald Nugent, recently stated, nothing in the First Step Act indicates that Congress wanted us to “perpetuate the application of [the] unconstitutional practice” that *Apprendi v. New Jersey*, 530 U.S. 466 (2000), condemned, “when determining a new sentence that complies with the Act’s directives.” *U.S. v. Stone*, 2019 WL 2475750, *2 (N.D. Ohio 2019) (citing cases).

I need not reinvent the wheels that Judge Nugent and others have already fashioned to keep the First Step Act on track “in the direction of justice”, as Senator Ted Cruz stated,

responding to presidential remarks on signing the Act. *Remarks by President Trump at the Signing Ceremony For S. 756, the "First Step Act,"* 2018 WL 6715859, *5.

Sen. Cruz also aptly and accurately pointed out, "there are far too many young men -- particularly, tragically, young black men -- who find themselves decades in prison for a nonviolent crime. This bill corrects this and it's a great step. . ." *Id.*

It is, accordingly, hereby

ORDERED THAT the motion of the defendant Josephus Petaway for relief under the First Step Act (Doc. 703) be, and the same hereby is, granted, thereby reducing his term of supervised release, when and as commenced, to three years.

So ordered.

/s/ James G. Carr
Sr. U.S. District Judge